



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.08.2021

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Crl.R.C.No.1252 of 2017

And

Crl.M.P.No.12184 of 2017

K.Sivakumar

...Petitioner

Vs.

S.Vijayalakshmi

...Respondent

Prayer:

Petition filed under Section 397 and 401 of Cr.P.C., seeking to set aside the order made in M.C.No.12 of 2008 dated 06.07.2017 on the file of III Additional Family Court, Chennai.

For Petitioner : Mrs.V.J.Latha
for M/s.Yogesh Kannadasan

For Respondent : Notice unserved

O R D E R

The petitioner has filed this petition seeking to set aside the order dated 06.07.2017 passed in M.C.No.12 of 2008 by the III Additional Family Court, Chennai.

2.The case of the petitioner is that the marriage between the petitioner and the respondent was solemnized on 27.05.1994 at Tirupati as per the Hindu Rites and Customs. They were not blessed with any children. Thereafter, matrimonial dispute arose and the petitioner filed HMOP No.2636 of 2007 seeking divorce before the Family Court, Chennai. The respondent filed HMOP No.2975 of 2006 for restitution of conjugal rights and M.C.No.12 of 2008 for maintenance before the Family Court, Chennai. The Family Court, Chennai, clubbed all the cases together and passed a common order, wherein, HMOP No.2636 of 2007 filed by the petitioner seeking divorce was dismissed, HMOP No.2975 of 2006 filed by the respondent for restitution of conjugal rights was allowed and the respondent was awarded a sum of Rs.15,000/- as maintenance. Aggrieved by the same, the petitioner has filed this revision.



3.The learned counsel appearing for the petitioner would submit that as against the rejection of divorce, the petitioner has filed C.M.A.No.287 of 2017 and the same is pending before this Court. She further submitted that the respondent is having sufficient income and she is staying in her parents house and hence the amount of Rs.15,000/- awarded as maintenance in favour of the respondent is exorbitant one. Accordingly, she prayed for allowing the revision.

4.Though this revision has been filed in the year 2017, till date, the petitioner has not taken any steps to serve notice on the petitioner. Hence, this Court is inclined to decide the revision based on the materials available on record.

5.The fact in the present case is not disputed. Admittedly, HMOP No.2636 of 2007 filed by the petitioner seeking divorce was dismissed by the lower Court and as against the rejection of divorce, the petitioner has filed C.M.A. in C.M.A.No.287 of 2017 and the same is pending before this Court. The present dispute is for the maintenance awarded to the respondent, whether it is exorbitant or not and when the appeal filed against the rejection of divorce is pending before this Court, whether the respondent is entitled for maintenance.

6.Though appeal has been filed by the petitioner as against the rejection of divorce, the same is pending before this Court without any interim order. Hence, there is no bar for awarding maintenance to the respondent. Even though the petitioner succeeds in the same and divorce is granted, the respondent is entitled for maintenance till she marries another person as per Section 125 of Cr.P.C. Considering the present cost of living, the amount of Rs.15,000/- awarded as maintenance in favour of the respondent cannot be said to be on the higher side and it is just and reasonable. Hence, there is no reason for denying the maintenance awarded in favour of the respondent and this Court is not inclined to interfere with the order dated 06.07.2017 passed in M.C.No.12 of 2008 by the III Additional Family Court, Chennai.

7.This revision is accordingly dismissed. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-VI)

//True Copy//

Sub Assistant Registrar

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To

The III Additional Family Court,
Chennai.

WEB COPY
Copy To

The section Officer,
Criminal Section,
High Court,
Madras.

+1cc to M/s.Yogesh Kannadasan, Advocate, S.R.No.37885

Cr1.R.C.No.1252 of 2017
And
Cr1.M.P.No.12184 of 2017

SPD (CO)
RGA (02/09/2021)